

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

IN RE:	)	Chapter 11
	)	
EASTERN LIVESTOCK CO., LLC,	)	Case No. 10-93904-BHL-11
	)	
Debtor.	)	Hon. Basil H. Lorch III
	)	
<u>JAMES A. KNAUER, CHAPTER 11 TRUSTEE</u>	)	
<u>OF EASTERN LIVESTOCK CO., LLC</u>	)	
	)	
Plaintiff,	)	
	)	Adversary Proceeding No. ____
v.	)	
	)	
ATKINSON LIVESTOCK MARKET, LLC	)	
	)	
Defendant.	)	
	)	

**ADVERSARY COMPLAINT**

James Knauer, as Chapter 11 Trustee for Eastern Livestock Co., LLC for his complaint against Atkinson Livestock Market, LLC states as follows:

**Jurisdiction & Parties**

1. This adversary proceeding (the "Adversary Proceeding") arises in and is related to the above-captioned bankruptcy case (the "Chapter 11 Case") which is currently pending under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of Indiana, New Albany Division (the "Court").

2. This Adversary Proceeding is brought pursuant to Rule 7001 of the Federal Rules of Bankruptcy Procedure.

3. This Court has jurisdiction over the subject matter of this Adversary Proceeding pursuant to 28 U.S.C. §§ 157 and 1334.

4. This Adversary Proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b).

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1409(a).

6. Eastern Livestock Co., LLC ("ELC") was one of the largest cattle brokerage companies in the United States, with operations and assets located in at least eleven states. ELC was headquartered in New Albany, Indiana, with branch locations across several states. Certain petitioning creditors commenced the Chapter 11 Case on December 6, 2010, (the "Petition Date") by filing an involuntary petition for relief under the Bankruptcy Code. The Bankruptcy Court entered the Order For Relief in An Involuntary Case and Order to Complete Filing on December 28, 2010.

7. James A. Knauer ("Trustee") was appointed as the Chapter 11 Trustee for ELC.

8. Defendant Atkinson Livestock Market, LLC ("Atkinson Livestock") is an Illinois limited liability company. Atkinson Livestock did business with ELC.

#### **Factual Circumstances**

9. From approximately September 30, 2010 to November 3, 2010, ELC and Atkinson Livestock entered into a series of purchase transactions, whereby Atkinson Livestock purchased cattle from ELC and agreed to pay for such cattle.

10. ELC delivered the purchased cattle to Atkinson Livestock and sent Atkinson Livestock invoices reflecting amounts owed for the cattle purchases. Despite demand, Atkinson Livestock has refused to pay ELC amounts due and owing for such purchases.

#### **Count I – Breach of Contract**

11. The Trustee incorporates by reference the allegations contained in paragraphs 1 through 10, inclusive, as if fully set forth herein.

12. The invoices issued by Eastern to Atkinson for each of the purchases is evidence of a contract.

13. Atkinson Livestock is in breach of the contracts between the parties for failing to pay Eastern the amounts due from Atkinson's purchases.

14. ELC has been damaged as a direct result of Atkinson Livestock's breach.

15. All conditions precedent to the Trustee's claims have been performed, have occurred, or have been excused.

### **Count II – Account Stated**

16. The Trustee incorporates by reference the allegations contained in paragraphs 1 through 15, inclusive, as if fully set forth herein.

17. Atkinson Livestock is indebted to ELC in the sum of \$2,577,880.13 plus interest for goods provided by ELC to Atkinson Livestock. On January 25, 2011, the Trustee sent a letter to Atkinson Livestock regarding the invoices. A true and accurate copy of this letter is attached hereto as Exhibit A and incorporated by this reference. Atkinson Livestock did not respond or otherwise object to the Trustee's letter or the amounts set forth therein.

18. Atkinson Livestock's indebtedness and account stated in the amount of \$2,577,880.13 plus interest is now past due and wholly unpaid.

WHEREFORE, the Trustee requests that this Court enter judgment in the Trustee's favor and against Atkinson Livestock and award the Trustee appropriate damages in the amount of \$2,577,880.13 plus interest, and all other just and proper relief.

Respectfully submitted,

By: /s/ Terry E. Hall

*Counsel for James A. Knauer, Chapter 11 Trustee*

James M. Carr (#3128-49)  
Robert K. Stanley (#1745-49)  
Terry E. Hall (#22041-49)  
Dustin R. DeNeal (#27535-49)  
300 N. Meridian Street, Suite 2700  
Indianapolis, IN 46204-1782  
Telephone: (317) 237-0300  
Facsimile: (317) 237-1000  
jim.carr@bakerd.com  
robert.stanley@bakerd.com  
terry.hall@bakerd.com  
dustin.deneal@bakerd.com

Wendy W. Ponader (#14633-49)  
Baker & Daniels LLP  
600 East 96th Street, Suite 600  
Indianapolis, IN 46240  
Telephone: (317) 569-9600  
Facsimile: (317) 569-4800  
wendy.ponader@bakerd.com